

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**ANNETTE LAWLOR CASWELL and
ANTHONY CASWELL,**
Plaintiffs,

v.

13-CV-469A(Sr)

**NATIONAL PASSENGER RAILROAD
CORPORATION, d/b/a AMTRAK,**

Defendant.

DECISION AND ORDER

This case was referred to the undersigned by the Hon. Richard J. Arcara, pursuant to 28 U.S.C. § 636(b)(1), for all pretrial matters and to hear and report upon dispositive motions. Dkt. #10.

By Notice of Motion dated September 4, 2014, defendant's counsel seeks to compel plaintiff to produce responses to discovery requests served on March 14, 2014 and to extend the deadlines in the Case Management Order to allow for depositions following receipt of discovery responses. Dkt. #17-1. An affidavit submitted in support of the motion sets forth defendant's continued good faith efforts to obtain discovery responses prior to the filing of this motion. Dkt. #17-1.

In response to the motion, plaintiffs' counsel assumed "responsibility for the delays to date, complicated by personal health issues," and advised the Court that

he did not oppose an Order compelling responses to defendant's discovery demands, which he expected to provide by October 1, 2014. Dkt. #19.

Defendant's counsel affirms that as of October 29, 2014, she has not received discovery responses from plaintiffs. Dkt. #20.

Defendant's motion to compel responses to its discovery demands is granted. Plaintiffs' attorney shall certify to the Court that he has responded to defendant's discovery demands no later than **November 14, 2014** or show cause, in writing, filed with the Clerk of Court, why this matter should not be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). Failure to comply with this Order will result in the undersigned recommending dismissal of this action with prejudice.

SO ORDERED.

DATED: Buffalo, New York
October 30, 2014

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge